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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, we would rest in You, for You alone can bring order to our world.

Reveal Yourself to our Senators, guiding them on the path of peace. May they place behind them disappointed hopes, fruitless labor, and trivial aims as they lean on You for comfort and strength. Rebuke their doubts. Strengthen the good in them so that nothing may hinder the outflow of Your power in their lives.

Give might to the weak and renew the strength of the strong.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

GUANTANAMO DETAINEES

Mr. MCCONNELL. Mr. President, President Obama has left the American people to wait for many years for a serious plan—one that poses no additional risk to our Nation or our Armed Forces, for instance—in pursuit of his desire to close a secure detention facility at Guantanamo Bay. Americans have been waiting for 7 long years to find out what the serious plan might look like. They are still waiting today.

What the President sent to Congress yesterday isn't a plan. It is more of a

research project than anything. It does call on Congress, however, to act. It turns out we already have. Congress has repeatedly, over and over again, voted to enact clear, bipartisan prohibitions on the very thing the President is again calling for, and that is the transfer of Guantanamo Bay terrorists into our local communities. We have enacted bipartisan prohibitions in Congresses with split party control. We have enacted bipartisan prohibitions in Congresses with massive, overwhelming Democratic majorities. Just a couple of months ago, Members of Congress in both parties expressed themselves clearly one more time—not once, but twice, and on an overwhelming bipartisan basis. President Obama signed these bipartisan prohibitions into law as well. So let's not pretend there is even the faintest of pretenses for some pen-and-phone gambit here.

Congress has acted clearly, repeatedly, and on a bipartisan basis. The President now has the duty to follow the laws he himself signed. It shouldn't be that hard when you consider his admonition yesterday about "upholding the highest standards of rule of law." He said: "As Americans, we pride ourselves on being a beacon to other nations, a model of the rule of law." That is interesting in light of a recent GAO ruling that the administration's detainee swap of Taliban prisoners for Bowe Bergdahl violated the law. It is especially interesting in light of the President's continuing refusal to rule out breaking the law if he doesn't get his way on Guantanamo. President Obama's own Attorney General says he cannot unilaterally do that. It is clear. President Obama's own Defense Secretary says he cannot unilaterally do that. President Obama's own top military officer says he cannot unilaterally do that. In the words of one of our Democratic colleagues, "He's going to have to comply with the legal restrictions." It is as simple as that—"going

to have to comply with the legal restrictions."

Breaking the law as a way to supposedly uphold the rule of law is just as absurd as it sounds. It is time that the President finally ruled that option out categorically, and then he should finally move on from a years-old campaign promise and focus on the real problem that needs solving today.

My own hope is that the Commander in Chief will not put his own chain of command in the position of having to carry out an unlawful direct order.

But, look, closing Guantanamo and transferring terrorists to the United States didn't make sense in 2008, and it makes even less sense today. We are a nation at war. The administration's efforts to contain ISIL thus far have not succeeded. The next President may very well want to pursue operations that target, capture, detain, and interrogate terrorists because that is how terrorist networks are defeated. Why would we take that option away from the next Commander in Chief now?

Let's be clear: The two options on the table are not keeping Guantanamo open or closing it, but keeping Guantanamo terrorists at Guantanamo or moving them to some Guantanamo North based in a U.S. community. Changing the detention center's ZIP Code is not a solution. It is not even serious.

The fact that the President missed a deadline for submitting a plan to defeat ISIL last week—presumably because he was just too busy working on his ancient campaign promise—is completely unacceptable.

Some of the most senior national security officials within President Obama's own administration are already working to better position the next President for the national security challenges we will face in 2017. It is time President Obama finally joined them and us in the serious work of keeping Americans safe in a dangerous world.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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ORDER OF BUSINESS

Mr. McCONNELL. Mr. President, we are going to move the confirmation vote back closer to noon in order to accommodate some important hearings that are going on this morning in several of our committees.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. PAUL). The Democratic leader is recognized.

FILLING THE SUPREME COURT VACANCY

Mr. REID. Mr. President, yesterday the senior Senator from Iowa, along with other Republicans on the Senate Judiciary Committee, announced that they won't be holding a hearing on President Obama's eventual nominee to the Supreme Court. They won't give the eventual nominee the common courtesy of even a meeting—no hearings, no meeting—and this was all done even before the President sent a name to us. This is historically unbelievable and historically unprecedented.

Republicans don't know who the nominee will be, and they have already mentioned that. Already they have decided they won't even start the confirmation process. Why? Because the person was nominated by President Obama. Remember, the Republican leader said many years ago that the No. 1 goal he had was to make sure President Obama was not reelected. That failed miserably. The President won by more than 5 million votes. Everything has been done by the Republicans in the Senate to embarrass, obstruct, filibuster—anything that could be done to focus attention on President Obama, none of which has helped the country.

Senator GRASSLEY has surrendered every pretense of independence and let the Republican leader annex the Judiciary Committee into a narrow, partisan mission of obstruction and gridlock—so partisan, in fact, that the senior Senator from Iowa won't respond to a personal invitation from the President inviting him to the White House to discuss the vacancy. Think about that. The President of the United States calls a very senior Senator, and he hasn't even responded to the President. This is a sad day for one of the proudest committees in the Senate. So I ask, is this the legacy he wants? Is this how he wants his committee work remembered—as a chairman who refused his duty and instead allowed the Republican leader to ride roughshod over the Judiciary Committee's storied history?

The strength of committee chairmen in the U.S. Senate has been legendary. No majority leader or minority leader could tell a chair what to do with his committee. That was off bounds, but it doesn't appear so now.

In abdicating this responsibility, which the Senate has always upheld—never in the history of the country has a Senate simply refused to do anything, even meet with the person who has been nominated. So Republicans are setting a dangerous precedent for future nominations, not only for the Supreme Court but for the Senate itself as an institution.

Yesterday the Senate Historian's office reported that the denial of committee hearings for a Supreme Court nominee is unprecedented. If that is unprecedented, how about the fact that he won't even meet with the person who has been nominated? If that is unprecedented, how about the fact that a Member of the Senate won't even go to the White House to talk to the President about filling the Supreme Court seat?

The senior Senator from Iowa will be the first Judiciary Committee chairman ever to refuse to hold a hearing on a Supreme Court nominee. That is quite an achievement, but not one of which he should be proud. That sort of wanton obstruction is not what the American people want. It is not what the people of Iowa want. Last week no fewer than six Iowa newspapers issued scathing editorials calling on Senator GRASSLEY to change course and give the President's Supreme Court nominee the respect he or she deserves.

For example, the Mason City Globe Gazette wrote:

We were especially disappointed to see Iowa's own Chuck Grassley join the partisan crowd calling for a delay. . . . There is no constitutional or even historical precedent for such flagrant, outrageous, shameful, bald-faced partisanship.

The Gazette in Cedar Rapids, IA, wrote of Senator GRASSLEY's actions:

It's hard to conclude this is anything but political maneuvering meant to meet partisan objectives at the expense of the Supreme Court, our constitutional process and the common good.

The headline of the Des Moines Register editorial reads, "Grassley's Supreme Court stance is all about politics."

Is that the legacy the chairman wants for Iowa and our Nation? I certainly hope not. Does he want to be remembered as the least productive Judiciary Committee chairman in history? At his current pace, he will be remembered as the most obstructive chairman in history.

Instead of studying what the Vice President said a quarter of a century ago, perhaps Senator GRASSLEY should take note of what Senator BIDEN did 25 years ago or generally as a member and chairman of that committee.

In 1992, under Senator BIDEN's leadership, the Judiciary Committee confirmed 64 circuit and district court nominations. All of the judicial nominations were made by a President of the opposite party—President George H.W. Bush. In 2015, Senator GRASSLEY's first year as chairman of the Judiciary Committee, the Senate confirmed 11

judicial nominations. That was the fewest judicial nominations confirmed ever. We were a much smaller country, perhaps, so "ever" might be a little much, but certainly in the last 50 or 75 years. That is quite a comparison: BIDEN, 64; GRASSLEY, 11.

It gets even worse than that for my friend from Iowa. In the entire 102nd Congress, when JOE BIDEN was chair, the Senate confirmed 120 nominees—120 judicial nominations under BIDEN. Compare that to 16 under Chairman GRASSLEY. The difference is stunning.

I would encourage my friend from Iowa to focus on Vice President BIDEN's actions and results, rather than cherry picking remarks of 25 years ago. The Judiciary Committee of JOE BIDEN honored its constitutional obligations by considering and confirming—even visiting with nominees—in a timely fashion, even though they were a Republican President's nominees. I can't say the same for the committee today. No one can.

As chairman, JOE BIDEN did his constitutional duty and processed four nominations from Republican Presidents to the Supreme Court, including Justice Kennedy—that vote occurred in the last year of President Reagan's Presidency—Souter and Thomas.

Let us focus on Thomas just a little bit. Thomas got 52 votes. He squeaked through the Senate. Any one Senator could have forced a cloture vote. Any one Democrat could have done that. We didn't do that. It was never done until the Republicans showed up here in the last few years.

Now, Bork was a very controversial person, but he received a long, long hearing before the committee and a long debate here in the Senate. He was voted down. That is how this place is supposed to work. Other nominees have been voted down. But we didn't say we are not going to hold a hearing on Bork. We didn't say we are not going to take the committee's actions and just leave it at that. Listen to this: Bork was turned down in the Judiciary Committee by an overwhelming margin. In spite of that, we brought it to the Senate floor and it was debated, and he won by two votes—no filibusters. He was defeated in the committee. We didn't look for an excuse. That is the way it used to be done.

With the Republican leadership now they will not meet with the nominee, even though they do not know who it will be; they won't hold a hearing; and the chairman of the committee will not even go to the White House and visit with the President.

As chairman, Senator BIDEN did his constitutional duty and processed nominations, even though they were Republican nominations. So we don't have to go back to 1988 or 1992 to prove the current Judiciary Committee chairman's ineptness. Look at the spike in judicial emergencies that have occurred on Chairman GRASSLEY's watch just in the past year.

What is an emergency? It means there are not enough judges—too many